B. RIGHTS TO USE HIGHWAYS

Research References

West's Key Number Digest
Automobiles ⇦4

A.L.R. Library
A.L.R. Index, Automobiles and Highway Traffic
West's A.L.R. Digest, Automobiles ⇦4

§ 10 In general

Research References
West's Key Number Digest, Automobiles ⇦4

Ordinarily, every traveler has an equal right in the highway, and every part thereof, with every other traveler.[1] The right to use public highways rests with the whole people of the state,[2] and the public is entitled to the full and free use of all the territory embraced within a public roadway.[3] Hence, a traveler, as such, may occupy and use any part of the public highway he or she desires, when not needed by another whose rights thereto are superior to his or her own.[4]

§ 11 Motor vehicles, generally

Research References
West's Key Number Digest, Automobiles ⇦4
What Constitutes "Use" or "Operation" Within Statute Making Owner of Motor Vehicle Liable for Negligence in its Use or Operation, 103 A.L.R.5th 339

The operation of a motor vehicle upon the public highways is not a fundamental right, but only a privilege.[1]

◆ **Observation:** Because the right to operate a motor vehicle is not a fundamental one, the state must show only a legitimate interest, rather than a compelling interest, to restrict or regulate the right.[2]

Owners and operators of motor vehicles have the right to use the public highways on an equal footing with the owners and operators of other vehicles.[3]

A farm tractor may be used on a highway if it is used solely for agricultural, farming, or manufacturing purposes.[4]

§ 12 Motorcycles and bicycles

Research References
West's Key Number Digest, Automobiles ⇦4

Motorcycles are lawful vehicles, and their rights on the highway are the same as those of automobiles.[1] So too, in the absence of any specific regulation to the contrary, a bicycle is a vehicle of such a nature that it may be properly used upon the highways and streets.[2]

§ 13 Vehicles engaged in transportation for hire

Research References
West's Key Number Digest, Automobiles ⇦4

The use of highways for the purpose of transporting persons or property for hire, by the ordinary means, is incidental to and consistent with the primary purpose of their establishment, and is therefore a proper use, in the absence of any restrictive regulation.[1] Such use is not, however, one which may be exercised as of right, but is a special or permissive use.[2]

[Section 10]

[1]Grommet v. St. Louis County, 680 S.W.2d 246, 22 Ed. Law Rep. 578 (Mo. Ct. App. E.D. 1984); Work v. Philadelphia Supply Co., 95 N.J.L. 193, 112 A. 185 (N.J. Ct. Err. & App. 1920).

[2]New York State Public Employees Federation, AFL-CIO v. City of Albany, 269 A.D.2d 707, 703 N.Y.S.2d 573 (3d Dep't 2000).

[3]Grommet v. St. Louis County, 680 S.W.2d 246, 22 Ed. Law Rep. 578 (Mo. Ct. App. E.D. 1984).

[4]Hatzakorzian v. Rucker-Fuller Desk Co., 197 Cal. 82, 239 P. 709, 41 A.L.R. 1027 (1925); Jeffords v. Florence County, 165 S.C. 15, 162 S.E. 574, 81 A.L.R. 313 (1932).

***Legal Encyclopedias*:** As to use of way, generally, see Am. Jur. 2d, Highways, Streets, and Bridges §§ 217 to 307.

[Section 11]

[1]Satterlee v. State, 289 Ark. 450, 711 S.W.2d 827 (1986); People v. Peterson, 734 P.2d 118 (Colo. 1987); State v. Folda, 267 Mont. 523, 885 P.2d 426 (1994); City of Spokane v. Port, 43 Wash. App. 273, 716 P.2d 945 (Div. 3 1986); Brandmiller v. Arreola, 189 Wis. 2d 215, 525 N.W.2d 353 (Ct. App. 1994), decision aff'd, 199 Wis. 2d 528, 544 N.W.2d 894 (1996).

[2]People v. Peterson, 734 P.2d 118 (Colo. 1987); Heying v. State, 515 N.E.2d 1125 (Ind. Ct. App. 1987).

[3]Slusher v. Safety Coach Transit Co., 229 Ky. 731, 17 S.W.2d 1012, 66 A.L.R. 1378 (1929); City of St. Paul v. Twin City Motor Bus Co., 187 Minn. 212, 245 N.W. 33 (1932).

[4]Ryan v. Pennsylvania Life Ins. Co., 123 S.W.3d 142 (Ky. 2003), as modified, (Jan. 28, 2004).

[Section 12]

[1]Van Cise v. Lencioni, 106 Cal. App. 2d 341, 235 P.2d 236 (1st Dist. 1951); Curtis v. Perry, 171 Wash. 542, 18 P.2d 840 (1933).

[2]Lee v. City of Port Huron, 128 Mich. 533, 87 N.W. 637 (1901).

[Section 13]

[1]Ex parte Dickey, 76 W. Va. 576, 85 S.E. 781 (1915); Park Hotel Co. v. Ketchum, 184 Wis. 182, 199 N.W. 219, 33 A.L.R. 351 (1924) (taxicab).

[2]Stephenson v. Binford, 287 U.S. 251, 53 S. Ct. 181, 77 L. Ed. 288, 87